

FILED

2:11 pm Sep 07 2021
Clerk U.S. District Court
Northern District of Ohio
Cleveland

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

In re:

DAVID BAILEY,

Petitioner.

) CASE NO: 1:21-mj-3256-TMP
)
)
)
MAGISTRATE JUDGE
)
THOMAS M. PARKER
)
)
)
)
UNDER SEAL
MOTION TO SEAL
)

Now comes the United States of America, by and through counsel, Bridget M. Brennan, Acting United States Attorney, and Jason W. White, Assistant United States Attorney, and respectfully moves this Court for an order sealing this case and all accompanying documents for the following reasons.

1. The government has been engaged in an ongoing investigation being conducted by the Federal Grand Jury for the Northern District of Ohio focused upon potential violations of Title 18, United States Code, Section(s) 641, which investigation would be compromised by the revelation of the government's request for the Court to consider the appointment of counsel for Petitioner.

2. In addition, such disclosure could subject Petitioner to harm and sealing is needed to protect not only the identity of Petitioner but also to protect disclosure of information which would otherwise keep potential witnesses from coming forward to cooperate.

The courts have inherent power, as an incident of their constitutional function, to control papers filed with the courts within certain constitutional and other limitations. *United States v. Agosto*, 600 F.2d 1256, 1257-58 (9th Cir. 1979) (rejecting and reversing district court's holding that district courts lack authority to seal affidavit and remanding issue to district court for factual

consideration); see also *Shea v. Gabriel*, 520 F.2d 879, 882 (1st Cir. 1975) (dismissing appeal concerning search warrant where district court carefully balanced government's interest in secrecy to protect its on-going investigation against temporary loss to property-owner).

Respectfully submitted,

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